

been with no intention to even trick anybody; it might have been in the yeast powders used in the kitchen. Suppose one of the servants had been tempted to drink of the liquor and then replenish the glass, could Mrs. Wharton be held responsible? Mr. Hagner here read from an authority a case illustrating the danger of holding an owner of a house responsible for all that was committed within its walls.

The sons of Mr. Nathan, who was murdered in New York, might, with as much reason, be held responsible for his death, as that Mrs. Wharton should be held responsible for such matters as the sediment was claimed to support.

Mrs. Wharton was undoubtedly anxious to give the last dose, because Dr. Williams had ordered it. She dropped it in Mrs. Hutton's absence, but how did Mrs. Wharton know that Mrs. Hutton would return? She knew that Mrs. Loney had gone down the street, and how did she know that Mrs. Hutton would not go with her?

Much stress had been laid upon the fact that the dose Mrs. Wharton gave General K. was cloudy, but Dr. Aikin had proved that yellow jessamine would cause a sediment. The jury had doubtless seen signs on the street which, from one point of view, read one way, and from another read an entirely different way, and so it was with this case, and he begged the jury not to regard everything in an odious light, but to consider all the circumstances surrounding Mrs. Wharton as calmly and dispassionately as if she was one of their well-known friends.

Mr. Hagner next addressed himself to the testimony in reference to the vest, and said it was an absurdity to claim that Mrs. Wharton would have taken the vest. Even if she had wanted to take the note, would it be supposed that she would be so idiotic as to take the vest too, and thus make evidence against herself? Mr. Hagner next referred to General Wise's testimony as to Mrs. Wharton's anxiety to borrow money, and said none of her statements had been disproved, and the State had not sustained that point.

Next, Mr. Hagner returned to the interview of Mrs. Wharton with Marshal Frey, and the offer of money, and at some length claimed that the wretched, open way in which Mrs. Wharton had gone about the alleged attempt to bribe disproved the thing on every fair consideration. It had been also claimed that Mrs. Wharton had attempted to suborn Mrs. Chubb, and Mrs. Wharton had only desired Mrs. Chubb to recall the circumstances and to state them as she (Mrs. Chubb) believed them.

The very mention of the name of Mr. Steele by Mrs. Wharton to Mrs. Chubb showed that she wished her to tell her account to a person who was incapable of placing a wrong construction upon it, or making a wrong use of the information. Mr. Hagner next reviewed the testimony about Mrs. Wharton's statements in reference to General K.'s mind being blurred. The great chain of circumstances which had been relied upon to connect Mrs. Wharton with the murder of General K. was broken in many places, and though some of its links might be gigantic in strength, yet, unless they were connected throughout, they

were no more than withes would be to a Sampson.

Mr. Hagner next read from Taylor on Poisons, page 406, as to the symptoms of tartar emetic poisoning and their uncertainty. It had been alleged that the case of the defence had been changing, but that was not so, and many of the facts had been introduced only when Mrs. Wharton had been accused of making false statements. There never had been, in this Court, as far as he (Mr. Hagner) remembered, a longer opening statement than the defence had made in this case, and it was sufficient that the prisoner should deny guilt, and say that she was ready to meet the charges against her. At some length Mr. Hagner reviewed the testimony of several witnesses as to General K.'s symptoms, and claimed that they did not support the assertion that they were those of tartar emetic poisoning, but that they were clearly absent in the case. Here he referred to page 478 of Wharton and Stille's Medical Jurisprudence, claiming that all exceptional cases were to be considered in favor of the prisoner. Mr. Hagner then noted the exceptional symptoms. It had been over and over again claimed that Dr. Williams, General K.'s attending physician, was the best person to judge of General K.'s symptoms, and yet at the time he had discovered no symptoms of tartar emetic poisoning. The fact that he looked back upon the symptoms with suspicions in his mind might partly account for his recollection in this particular, and there is a homely adage which says that "hind knowledge is often better than foreknowledge." Neither Drs. Miles nor Chew, who stood just as high as Dr. Williams deserved to stand, had said that the symptoms were those of tartar emetic poisoning. Dr. Williams' opinions were inconsistent with the statements laid down in the books.

The State had prepared a hypothetical statement, but they had dropped it and taken up the hypothetical statement of the defence. At much length Mr. Hagner reviewed the symptoms of Gen. K.'s sickness and the circumstances bearing upon them, in presenting his view of the case in regard to them. No part of the opinions of Drs. Donaldson and Thompson could be relied upon because the assertions set forth in the hypothetical statement of the State were not sustained by the testimony in the case.

Mr. Hagner next reviewed the opinions of other medical experts for the State, and contended that they, in reality, sustained the plea of the defence. If Gen. Ketchum was moribund at 11 A. M. on Wednesday, the last dose did not kill him, and if he was not at that time moribund, then Dr. Smith had more than intimated that the chloral might have killed him. He respected Dr. Smith's ability and reputation, but old doctors often thought it was presumption for younger doctors to say that a new disease had started up, and it seemed to be so with regard to cerebro spinal meningitis. The State's officers had almost claimed that the defence had invented that disease just to apply to this case, but the books were full of it. Mr. Hagner